

Adopt Puc 2200 as follows:

Chapter Puc 2200 UNIFORM RULES FOR DISCLOSURE AND REPORTING BY
COMPETITIVE ELECTRIC POWER SUPPLIERS, ELECTRIC UTILITIES, AND
SUPPLIERS OF ELECTRIC SERVICE

PART Puc 2201 DISCLOSURE PURPOSE AND SCOPE

Puc 2201.01 Purpose.

The purpose of this chapter is to implement the requirements of the 2002 268:7, which require the commission to establish reporting requirements that will inform all customers on an ongoing basis about the resource mix and environmental characteristics of the electric service they take, and RSA 374-F:3,IX which promotes choice for customers who are willing to pay a premium for electricity produced from renewable resources.

Puc 2201.02 Scope.

(a) This part shall apply to competitive electric service suppliers, to electric utilities providing transition and default electric service to retail customers, and electric service suppliers.

(b) An electric utility providing transition and default service to retail customers shall comply with these rules by:

1. Including in its contracts with wholesale sellers a provision requiring that such sellers provide the electric utility with the information necessary for the electric utility to comply with these rules; and

2. Disclosing the resource mix and environmental characteristics of such transition service and default service provided from its resources.

(c) This part shall not apply to aggregators as defined in Puc 2202.01.

PART Puc 2202 DEFINITIONS

Puc 2202.01. “Aggregator” means any person or entity that combines the electricity loads of multiple customers but takes no ownership of the electricity needed to meet that aggregated load. The term includes, but is not limited to, entities that act as an agent of a buyer or seller who buys or sells the commodity on a commission basis.

Puc 2202.02 “Competitive electric power supplier” (CEPS) means any person or entity that sells or offers to sell electricity to retail customers by using the transmission or distribution facilities, or both, of any public utility in this state. The term includes but is not limited to owners of electric generating facilities, marketers of electricity and municipalities selling or offering to sell electricity but does not include an entity that sells only to an affiliate.

Puc 2202.03 “Customer” means any person or entity in this state, including any governmental unit, which purchases electricity at the retail market.

Puc 2202.04 “Default service” means electricity supply that is available to retail customers who are otherwise without an electricity supplier and are ineligible for transition service.

Puc 2202.05 “Electric service” means the furnishing of the generation component of electricity to a retail customer in this state.

Puc 2202.06 “Electric service supplier” means persons or entities other than competitive electric suppliers and utilities which provide electric service to retail customers.

Puc 2202.07 “Electric utility” means a public utility owning, operating, or managing any generation plant or equipment or any part of the same for transmission or distribution of electricity ultimately sold to the public within New Hampshire excluding municipal corporations operating within their own corporate limits, municipal corporations to the extent exempt to RSA 362:4-a, and electric sub-metering in campgrounds, pursuant to RSA 363:3-a.

Puc 2202.08 “Independent system operator” (ISO) means the independent bulk power system operator for New England or any successor system as named by the Federal Energy Regulatory Commission (FERC), or its successor.

Puc 2202.09 “Label” means the bill insert or flyer, separate from the utility bill itself, which displays the resource mix and relative emissions characteristics of the total certificates or electricity purchased by a supplier or electric utility as set forth in Puc 2204 below.

Puc 2202.10 “New England Power Pool” (NEPOOL) means the voluntary association of entities collectively participating in the electric power business in New England, or its members, in the event NEPOOL ceases to exist.

Puc 2202.11 “New England region” means the region comprised of the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

Puc 2202.12 “Regional average emissions” means the total amount of sulfur dioxide (SO₂) nitrogen oxides (NO_x), carbon dioxide (CO₂), and particulates emitted by electric generators physically located in the New England region, divided by the total generation of those plants.

Puc 2202.12 “Renewable resources” means resources used for electricity generation that can be naturally replenished including but not limited to:

- (a) Geothermal energy,
- (b) Tidal or wave energy;
- (c) Wind energy;

- (d) Solar thermal energy;
- (e) Photovoltaic energy;
- (f) Landfill gas energy;
- (g) Hydro energy; and
- (h) Energy from wood or other types of biomass.

Puc 2202.14 “Resource mix” means the energy resources used by generation plants to produce electricity.

Puc 2202.15 “Small commercial electric customer” means any non-residential customer, as defined under the terms and conditions of the consumer’s transmission and distribution utility tariff, that meets the availability criteria to take service under a utility tariff having a normal maximum demand threshold of less than 100 kilowatts.

Puc 2202.16 “Transition service” means electricity service that is available to existing retail customers prior to each customer’s first choice of a competitive electric power supplier and to others, as deemed appropriate by the commission.

PART Puc 2203 DISCLOSURE REQUIREMENTS FOR COMPETITIVE ELECTRIC POWER SUPPLIERS , ELECTRIC UTILITIES, AND SUPPLIERS OF ELECTRIC SERVICE

Puc 2203.01 Distribution of Label

(a) Each CEPS, electric utility and electric service supplier shall provide its customers with a label as described in and in accordance with Puc 2204.

(b) Each CEPS, electric utility and electric service supplier shall on no less than a quarterly basis include the current label with the electric bill sent to customers or send the label in a separate mailing to all customers.

(c) Each CEPS, electric utility and electric service supplier shall make the current label available upon request and provide the label with any service contract or other written explanation of service terms.

(d) Each CEPS, electric utility and electric service supplier shall display a copy of the current label on its website if it has one.

(e) Each CEPS shall provide the label, with information provided to residential and small commercial electric customers, pursuant to Puc 2004.02.

(f) Each CEPS, electric utility and electric service supplier shall include a statement in bills to customers which indicates that the label is available upon request and how such a request may be made.

PART Puc 2204 DISPLAY OF LABEL INFORMATION

Puc 2204.01 General Label Information

(a) Labels directed toward residential and small commercial customers shall have the title: “Resource Mix and Environmental Characteristics of Electricity for Residential and Small Commercial Customers” in no less than 12 point font.

(b) Labels intended for large commercial and industrial customers shall have the title: “Resource Mix and Environmental Characteristics of Electricity for Large Commercial & Industrial Customers” in no less than 12 point font.

(c) Below the title described above, the CEPS, electric utility and electric service supplier shall clearly state the time frame relevant to the information contained in the label in no less than 8 point font.

(d) The second subtitle under the title of the label shall indicate in at least 12 point font the type of service to which the label pertains as follows:

(1) “Transition Service;”

(2) “Default Service;” or

(3) “Competitive Electric Service.”

(e) If a customer is receiving competitive electric service, the first subtitle shall state the name of the CEPS in no less than 12 point font.

(f) If a customer is receiving transition or default service, the first subtitle shall state the name of the electric utility in no less than 12 point font.

(g) If a customer is receiving electric service from an electric service supplier not specified by (e) or (f) above, the first subtitle shall state the name of the electric service supplier in no less than 12 point font.

(h) The following statement shall be written below the “Resource Mix” pie chart described in Puc 2204.03 in no less than 10 point type face: “Resource Mix: Your label was created from information certified by your electric supplier. That information stems from a certificate trading program. Certificates represent the environmental characteristics of resources used to generate electricity in or near the New England region. The information may not represent the resources used to generate the electricity you consume.”

(i) Below “The effects of air emissions on the environment” statement the label shall state the following: “Contact Information: Visit the New Hampshire Public Utilities Commission website at www.puc.state.nh.us, or contact your supplier to learn more about the environmental effects of the resources listed above, the certificate trading program, and the resource mix and relative emissions of the electricity provided by other suppliers.” in no less than 10 point font.

(j) If a customer is receiving competitive electric service the statement required by (i) above shall include the name of the CEPS and its toll-free customer service phone number.

(k) If a customer is receiving transition or default service, the statement required by (i) above shall include the name of the electric utility and its toll-free customer service phone number.

(l) If a customer is receiving electric service from an electric service supplier not specified by (j) or (k) above, the statement required by (i) above shall include the name of the electric service supplier and its toll-free customer service phone number.

Puc 2204.02 Determination of Resource Mix and Emissions Information

(a) Each CEPS, electric utility and electric service supplier providing transition service or default service from its resources, , shall determine the resource mix used to meet its electrical load. Each CEPS, electric utility and electric service supplier shall provide and update this information on no less than a calendar quarterly basis.

(b) Each CEPS, electric utility and electric service supplier shall use the environmental attributes of its resource mix as obtained from the New Hampshire Department of Environmental Services as the basis for reporting emissions information required in Puc 2204.04 below.

(c) In the event the CEPS, electric utility or electric service supplier purchases certificates from the ISO to define the environmental attributes of its generated electric power, it shall use the environmental attributes represented by such certificates in determining its resource mix and emissions information.

(d) Each CEPS, electric utility and electric service supplier shall provide resource mix and emissions data to the commission on a quarterly basis.

(e) In the event that there is more than one wholesale provider for an electric utility providing transition and/or default service, the resource mix and emissions information shall be a weighted average and only one label shall be prepared. The weight used shall be each wholesaler’s percentage of the electric utility’s total load.

Puc 2204.03 Display of Resource Mix Information.

(a) The resource mix information described below including corresponding percentages, shall be placed in a pie chart titled, “Resource Mix” in no less than 10 point font.

(b) Below the title required by (a) above, : “As a Percent of Total Resources Used” shall be written in no less than 8 point font.

(c) Each energy resource in the CEPS’, electric utility’s or electric service supplier’s resource mix and its corresponding percentage relative to the total resource mix, as measured in kilowatt hours, shall be displayed in the pie chart required by (a) above.

(d) The pie chart shall display the percentage, rounded to the nearest percentage point, of each of the following energy resources as such resource relates to the total resource mix.:

- (1) Coal;
- (2) Hydropower;
- (3) Natural gas;
- (4) Nuclear;
- (5) Oil;
- (6) Other renewable resources; and
- (7) Imports from outside of the New England region.

(e) Any energy resource not listed in (d) above shall be listed as “other.”

(f) In the table required by (a) above, if one or more of the “other” energy resources “or other renewable resources” is more than 2 percent of the total resource mix, such source shall be listed separately along with its corresponding percentage relative to the total resource mix.

(g) The pie chart required by (a) above shall be in a box measuring 3 inches in height by 4 inches in width, where the upper, left hand corner starts 2.5 inches from the top of the landscaped page.

(h) The pie chart shall be printed in a single color.

(i) The pieces shall be fractured in such a way that each piece appears as a distinct entity.

(j) A line shall point to the center of the arc of each pie piece. At the other end of the aforementioned line shall appear the name of the resource and its corresponding percent relative to the supplier’s total resource mix in a serif font that is no smaller than 8-point and no larger than 10-point

(k) The following statement shall be written below the “Resource Mix” statement required by Puc 2204.01(h): “Other Renewable Resources may include geothermal energy, tidal or wave energy, wind energy, solar thermal energy, photovoltaic energy, landfill gas energy, wood, biomass energy, or municipal waste energy. Although hydropower is a renewable resource it is listed separately.” in no less than 8 point font.

(l) The pie chart required by (a) above shall appear in the left-hand side of the label below the second subtitle of the label and to the left of the “Relative Emissions” table as described in Puc 2204.04.

Puc 2204.04 Display of Emissions Information.

(a) The label shall list the following emissions produced by the fuels used in producing the electric services;

- (1) Sulfur dioxide;
- (2) Nitrous oxides;
- (3) Carbon dioxide; and
- (4) Particulates.

(b) The CEPS, electric utility and electric service supplier shall display the emissions associated with each resource listed in Puc 2204.04 (a) as a rolling annual emission rate in pounds per 1,000 kilowatt hours produced.

(c) The CEPS, electric utility and electric service supplier shall update such emissions data on the label on a quarterly basis.

(d) The label shall display a table titled, “Relative Emissions” in no less than 10 point font, with a subtitle stating, “In pounds per 1,000 kilowatt hours produced. This table compares air emissions from the supplier’s resource mix to average emission levels from all of New England’s power sources from [month/year to month/year]” in no less than 8 point font.

(e) The table required by (d) above shall compare the rolling annual emission rates of a CEPS’, an electric utility’s, or electric service supplier’s total resource mix to the New England regional annual emission rates as obtained from the New Hampshire Department of Environmental Services for a time period comparable to that reported in Puc 2204.04(b).

(f) The first column in the table required by (d) above shall list the pollutants in the following order;

1. Carbon Dioxide (CO₂);
2. Nitrogen Oxides (NO_x);

3. Sulphur Dioxide (SO₂); and

4. Particulates (PM₁₀)), in no less than 9 point font.

(g) The second column in the table required by (d) above shall contain the number of pounds per 1,000 kWhs in no less than 9 point font.

(h) For carbon dioxide, nitrogen oxides, and sulfur dioxide, in the table required by (d) above, the pounds per 1,000 kWh shall be rounded to the second decimal place. For particulates, in the table required by (d) above, the pounds per 1,000 kWh shall be rounded to the fourth decimal place.

(i) The third column in the table required by (d) above shall indicate the percent that the value in the second column falls above or below the New England average using the following statement: “This is [number, percent] [less or more than] or [equal to] New England’s Average.” in no less than 9 point font.

(j) Below the table, the following sentence shall be included: “For information on the effects of these emissions on public health and the environment, please refer to the following website: www.des.state.nh.us, or call 1-800-498-6868, or write “N.H. Department of Environmental Services, Air Resources Division, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

PART Puc 2205 REGULATORY OVERSIGHT

Puc 2205.01 Filing of Label and Educational Information

(a) Each CEPS, electric utility and electric service supplier shall file the disclosure label copies of educational information distributed to retail customers in connection with compliance with these rules with the Commission beginning January 1, 2004 and on a quarterly basis thereafter.

(b) Each CEPS, electric utility and electric service supplier shall file the form of the disclosure label and copies of educational information upon the revision of the format of such label. CEPS, electric utilities and electric service suppliers shall not be required to provide the commission with labels where the only changed elements are those reporting quarterly market settlement data from the ISO.

Puc 2205.02 Compliance Review

In order to verify that the information displayed on the disclosure label is accurate, the commission shall request the CEPS, electric utility and electric service supplier to provide

market data information. The CEPS, electric utility and electric service supplier shall provide the commission with such information upon request.

Puc 2205.03 Enforcement Against CEPS

(a) The commission shall, pursuant to RSA 374-F:7,III, fine a CEPS up to \$1,000.00 per day for each violation, after an opportunity to be heard, for providing false or misleading information with respect to the resource mix or emissions information of the electricity it sells at the retail market.

(b) The commission shall suspend the registration of a CEPS, after an opportunity to be heard, for any violations of this chapter if it constitutes the second noticed violation by the CEPS of the requirements of Puc 2200.

(c) The commission shall revoke the registration of a CEPS, after an opportunity to be heard, for the fourth or subsequent noticed violation of Puc 2200.

(d) Any CEPS whose registration is suspended shall be prohibited from doing business in the state as a CEPS for a period of no less than 30 days nor more than 6 months from the date of suspension.

(e) Any CEPS whose registration is revoked shall be prohibited from doing business in the state as a CEPS for a period of no less than 6 months nor more than 2 years from the date of such revocation.

(f) The commission shall determine the period of revocation or suspension as described in (b) – (e) above, or the amount of the fine, as described in (a) above based on the severity of the infraction, mitigating circumstances, if any, and other relevant information pertaining to the business practices of the CEPS and its principals.

(g) For the purposes of (f) above, “mitigating circumstances” means:

- (1) The CEPS’s , electric utility’s, or electric service supplier’s prior history of violations;
- (2) The good faith efforts, if any, of the CEPS, an electric utility, or an electric service supplier to comply with these rules; and
- (3) Such other factors deemed appropriate and material to the particular circumstances of the violation.

(h) The commission shall waive or lessen the imposition of any sanctions or imposition of a fine, if it determines that:

- (1) The violation was immaterial, unintentional, or both;

(2) The CEPS acted in good faith to comply with all applicable statutory and regulatory requirements; or

(3) Other mitigating circumstances exist.